

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ASTELLAS INSTITUTE FOR REGENERATIVE
MEDICINE, and STEM CELL & REGENERATIVE
MEDICINE INTERNATIONAL, INC.,

Plaintiffs,

v.

IMSTEM BIOTECHNOLOGY, INC., XIAOFANG
WANG, and REN-HE XU,

Defendants.

C.A. No. 1:17-cv-12239

ORAL ARGUMENT REQUESTED

DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to the Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1, Defendants Imstem Biotechnology, Inc. (“Imstem”), Xiaofang Wang (“Wang”), and Ren-He Xu (“Xu”) (collectively “Defendants”) hereby move for relief granting the summary judgment in Defendants’ favor on Counts III through VIII of the Plaintiffs’ First Amended Complaint (Dkt. 113). There are no factual disputes, certain of the Plaintiffs’ claims are time barred under Massachusetts law, and the remainder of the Plaintiffs’ claims are not sustainable as a matter of law. The remaining inventorship claims can and should be tried to the Court.

In support of the instant Motion, and as allowed by the Court (Dkt. 126), Defendants submit under seal contemporaneously herewith: (1) Defendants’ Memorandum of Law in Support of Their Motion for Partial Summary Judgment; (2) Defendants’ Statement of Undisputed Material Facts in Support of Their Motion for Partial Summary Judgment; and (3)

the Declaration of Timothy Shannon in Support of Defendants' Motion for Partial Summary Judgment.

WHEREFORE, for the aforementioned reasons, Defendants respectfully request the Court grant the Defendants' Motion with respect to Counts III through VIII of the Plaintiffs' First Amended Complaint, and enter judgment in favor of Defendants and against Plaintiffs on such claims.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(c), Defendants respectfully request oral argument. Defendants believe that oral argument will materially assist the Court in rendering a decision on the instant Motion.

December 19, 2019

Respectfully submitted,

IMSTEM BIOTECHNOLOGY, INC.;
DR XIAOFANG WANG; and
DR. REN-HE XU

/s/ Timothy Shannon

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CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.1, I certify that I have conferred with counsel for the Plaintiffs on December 19, 2019 regarding the relief requested herein. Counsel for Plaintiffs have indicated that they oppose the relief requested herein.

/s/ Timothy Shannon
Timothy R. Shannon

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of this document to be filed in accordance with the Court's procedures through the CM/ECF system, to be sent electronically to the registered participants, and paper copies to be sent to those indicated as nonregistered participants.

Dated: December 19, 2019

/s/ Timothy Shannon
Timothy R. Shannon